

ORDINANCE NO. 84 - 6

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY AMENDING ORDINANCE NO. 81-3 WHICH REQUIRES RETAIL BUSINESSES WITHIN PALM BEACH COUNTY, FLORIDA, EQUIPPED WITH AN OPTICAL SCANNER CAPABLE OF READING THE UNIVERSAL PRODUCTS CODE TO HAVE ALL CONSUMER GOODS BEARING SUCH CODE MARKED WITH AN INDIVIDUAL PRICE; PROVIDING FOR ALL SELLERS TO MARK AN INDIVIDUAL PRICE UPON CONSUMER COMMODITIES OFFERED FOR SALE OR SOLD BY A SELLER IN PALM BEACH COUNTY, FLORIDA; PROVIDING FOR ADDITIONAL EXEMPTIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEALING LAWS IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, as amended, authorizes the Board of County Commissioners of Palm Beach County to provide and maintain for the citizens and visitors of said County standards which will insure their health, welfare, and well being; and

WHEREAS, it is necessary in the general interest of the public and to promote the general welfare to require adequate methods of pricing for consumer commodities offered for sale or sold by all sellers in Palm Beach County, Florida; and

WHEREAS, the Board of County Commissioners of Palm Beach County, Florida, has determined that under certain circumstances consumers are protected by alternative pricing systems, other than individual item pricing, thereby eliminating the need for individual item pricing and promoting savings therefrom to be returned to the consumers in the form of lower prices;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Ordinance 81-3 is amended as follows:

PART I - Section 1, is hereby amended as follows:

SECTION 1.

~~Businesses-involved-in-retail-sales-within-Palm-Beach-County, Florida,-equipped-with-an-optical-scanner-capable-of-reading-the Universal-Products-Code-shall-mark-upon-all-consumer-goods-bearing-such code-an-individual-price-~~

All sellers shall mark an individual price upon consumer commodities offered for sale or sold by a seller in Palm Beach County, Florida.

1 PART II - Section 2, Exemptions, is hereby amended as follows:

2 SECTION 2. EXEMPTIONS.

3 The provisions of Section 1 hereof shall not apply to the
4 following:

5 a) Consumer commodities sold by weight or volume which are not
6 in a package or container.

7 b) Consumer commodities sold in vending machines.

8 c) Unpackaged food items or food items intended to be consumed
9 on or about the premises.

10 d) Unpackaged bulk or fresh produce, milk products, eggs, baby
11 food, live plants, live animals, greeting cards with readable coded price
12 on the back of the card.

13 e) Snack foods, such as cakes, gum, candies, chips, and nuts
14 and similar items offered for sale in single packages and weighing four
15 ounces or less.

16 f) Cigarettes, cigars, tobacco, and tobacco products with a
17 retail price of \$2.00 or less.

18 g) Identical items within a multi-item package when the
19 multi-item package is price marked or individual items removed from a
20 multi-item package for a single sale.

21 h) Consumer commodities which have a total weight of not more
22 than three ounces, total volume of not more than three cubic inches and a
23 total price of not more than \$1.00.

24 i) Items on sale, if the sale price is conspicuously posted
25 near the sale location of the items.

26 j) All sellers which conspicuously display the price of a
27 commodity by means of a large, easy to read price label containing bold
28 numbers, which numbers shall measure not less than 3/4 of an inch in
29 height, aligned and affixed beneath each applicable product display, or
30 shelf molding below the product, and plainly identifying the product to
31 which the price applies.

32 PART III - Section 3, Severability, is hereby renumbered as Section 9.

33 PART IV - Section 3, Definitions, is hereby created as follows:

34 SECTION 3. DEFINITIONS

35 (a) "Seller" means any person engaged in the business of
36 selling a consumer commodity at retail.

1 (b) "Consumer Commodity" means any article, product, or
2 commodity of any kind or class, other than durable articles, textiles,
3 items of apparel, appliances, paints, writing supplies, and articles
4 specially ordered from the seller, including prescription drugs, which is
5 customarily produced or distributed for sale at retail for consumption by
6 individuals or use by individuals for purposes of personal care or in the
7 performance of routine services ordinarily rendered regularly within the
8 household, and which is usually consumed or expended in the course of
9 such consumption or use.

10 PART V - Section 4, Inclusion in Code, is hereby renumbered as Section
11 10.

12 PART VI - Section 4, Enforcement, is hereby created as follows:

13 SECTION 4. ENFORCEMENT.

14 Whenever any seller has engaged in any acts or practices which
15 constitute violations of any provision of this Ordinance, the County
16 Attorney's Office, on behalf of the Board of County Commissioners of Palm
17 Beach County, may make application to the Circuit Court of the Fifteenth
18 Judicial Circuit for an order enjoining such acts or practices and for an
19 order granting a permanent injunction, restraining order, or other order
20 enjoining such acts or practices; said orders to be granted without bond.

21 PART VII - Section 5, Effective Date, is hereby renumbered as Section 11.

22 PART VIII- Section 5, is hereby created as follows:

23 SECTION 5. PENALTIES.

24 Violations of this Ordinance shall be punishable as a
25 misdemeanor in accordance with Section 125.69, Florida Statutes. Each
26 day of a continuing violation shall be considered a separate offense
27 punishable by fine of up to Five Hundred Dollars (\$500.00) or sixty (60)
28 days imprisonment in the County jail.

29 PART IX - Section 6, Other Rights and Remedies, is hereby created as
30 follows:

31 SECTION 6. OTHER RIGHTS AND REMEDIES.

32 Nothing herein shall prevent any person from exercising any
33 right or seeking any private remedy, including but not limited to
34 judicial review of any actions or decisions taken to implement and
35 and enforce the terms of this ordinance, to which he might otherwise be
36 entitled, or from filing any complaint with any other agency.

1 PART X - Section 7, Applicability, is hereby created as follows:

2 SECTION 7. APPLICABILITY.

3 It is hereby provided that this Ordinance shall constitute a
4 uniform law applicable in all the unincorporated and incorporated areas
5 of Palm Beach County, Florida, to the extent permitted by the Florida
6 Constitution, Article VIII, Section I.

7 PART XI - Section 8, Repealing Laws in Conflict Herewith, is hereby
8 created as follows:

9 SECTION 8. REPEALING LAWS IN CONFLICT HEREWITH.

10 All special laws applying to and within this County and general
11 laws applying only to this County, and any general law which this Board
12 of County Commissioners is specifically authorized by Article VIII of the
13 Florida Constitution to supersede, nullify or amend, or any part of such
14 ordinances, resolutions or laws, in conflict with any provision of the
15 Ordinance, are hereby repealed.

16 PART XII- SEVERABILITY

17 If any section, sentence, clause or phrase of this Ordinance is
18 held to be invalid or unconstitutional by any Court of competent
19 jurisdiction, then said holding shall in no way affect the validity of
20 the remaining portions of this Ordinance.

21 PART XIII- INCLUSION IN CODE.

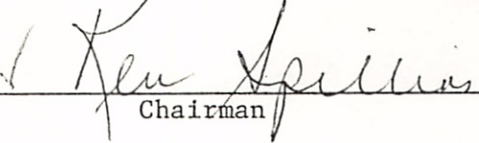
22 It is the intention of the Board of County Commissioners that
23 the provisions of this Ordinance shall become and be made a part of the
24 Palm Beach County Code; and that the sections of this Ordinance may be
25 renumbered or relettered and the word "Ordinance" may be changed to
26 "Section", "Article", or such other appropriate word or phrase in order
27 to accomplish such intentions.

28 PART XIV- EFFECTIVE DATE.

29 The provisions of this Ordinance shall become effective upon
30 receipt of acknowledgment by the Department of State, State of Florida.

31 APPROVED and ADOPTED by the Board of County Commissioners of
32 Palm Beach County, Florida on the 31st day of July,
33 19 84.

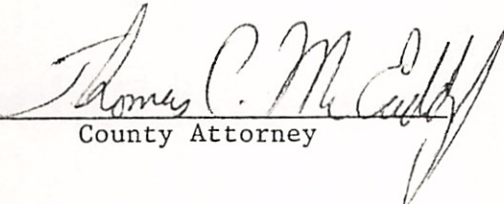
PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: 
Chairman

Acknowledged by the Department of State of the State of
Florida, on this 9th day of August, 19 84.

EFFECTIVE DATE: Acknowledgment from the Department of State
received on the 13th day of August, 19⁸⁴, at
3:10 p .m., and filed in the office of the Clerk of the Board of
County Commissioners of Palm Beach County, Florida.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney